

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN HILTON,

Plaintiff,

v.

HOME DEPOT, INC. *et al*,

Defendants.

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CIVIL ACTION

No. 20-5145

ORDER

AND NOW, this 21st day of March, 2022, upon review of Defendants' pending partial motion to dismiss, Plaintiff's opposition thereto, and Defendants' reply, it is hereby **ORDERED** as follows:

1. Defendants' Partial Motion to Dismiss Plaintiff's Amended Complaint (Docket No. 40) is **GRANTED**;
2. Counts 1, 2 and 5 of Plaintiff's Amended Complaint alleging ADA violations are dismissed as to individual defendants Roselli and Davison;
3. Count 7 of Plaintiff's Amended Complaint (incorrectly labeled by Plaintiff as a second Count 6) alleging a common law wrongful termination claim is dismissed with prejudice;
4. Count 3 of Plaintiff's Amended Complaint is dismissed with prejudice as it is duplicative of Count 4 of the Amended Complaint;
5. Plaintiff's FMLA retaliation claims that occurred prior to October 15, 2017, as found in Count 4 are dismissed with prejudice as unopposed;

6. Plaintiff's demand for compensatory and punitive damages and a jury trial on his ADA/ADAAA retaliation claims, compensatory and punitive damages under the FMLA, and punitive damages under the PHRA is stricken from his Amended Complaint as unopposed;

7. Plaintiff's claim for a hostile work environment under the FMLA contained in Count 5 is dismissed with prejudice;

8. Plaintiff's claims for discrimination and retaliation under the ADA that occurred prior to February 14, 2017, are time-barred, dismissed with prejudice and stricken from the Amended Complaint;

9. Plaintiff's claims for discrimination and retaliation under the PHRA that occurred prior to June 14, 2017, are time-barred, dismissed with prejudice and stricken from the Amended Complaint;

10. Defendant Roselli's name is stricken from the caption in this matter;

11. Defendant Davison is dismissed from this matter without prejudice due to Hilton's failure to serve him with the complaint and summons and his name is stricken from the caption; and

12. Defendant Home Depot shall answer the Amended Complaint within twenty (20) days of the date of this Order.

BY THE COURT:

/s/ Jeffrey L. Schmehl
Jeffrey L. Schmehl, J.